IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTIION

Writ Petition No. 565 of 2006
with
Civil Application No.1845 of 2006
in
Civil Application No.1008 of 1995
in
Writ Petition No,.4487 of 1994

Bapu Sonu Gaikwad ..Petitioner

vs.

1. Shri Krishna Shankar Londhe
since deceased through his
legal heirs
1A Smt.Laxmibai Krishna Londhe
and others ..Respondents

Shri R.V.Govilkar i/b Shri Sarang Aradhye for petitioner.

Shri S.B.Deshmukh for respondent nos.1A to 1C

Shri R.M.Patne, A.G.P. for respondent nos. 2 to 5

CORAM: S.C.DHARMADHIKARI J.
20th NOVEMBER, 2007

P.C.

1. Rule. Heard Shri Govilkar for petitioner, Shri Deshmukh for respondent nos.1A to 1C and Shri Patne, A.G.P. for respondent nos. 2 to 5. Rule taken up for hearing forthwith by consent.

2. The petitioner is aggrieved by the order passed by the Minister for Prohibition and Excise, Government of Maharashtra allowing the

appeal preferred by the first respondent and deleting the name of the petitioner from the subject liquor licence.

3. It is not necessary to go into the rival contentions in great details nor the chequered history of the litigation in as much as the bone of contention appears to be that in the year 1973, the liquor licence in Form CL-III was granted in the joint name of Krishna Shankar Londhe and Bapu Sonu Gaikwad. While respondent no.1 does not admit the said state of affairs and says that the licence is issued exclusively in his name, the petitioner invites attention of the Court to several documents and finding of the Commissioner of Excise in the appeal preferred by the first respondent before him challenging the order of the Collector to support the case of joint names. The Minister has in the order impugned before me observed that the petitioner could not produce any documents to show that his name was also included in the subject licence. Obviously, the Minister has adverted to the findings of the Collector and Commissioner but has commented that though these findings are based on the available record, the available

record does not indicate that the names of the petitioner, Bapu Sonu Gaikwad and the first respondent Krishna Londhe appear jointly. Further, he has adverted to the fact that the petitioner was working with the first respondent under the Nokarnama. However, at the same time the Minister refers to the joint application for issuance of the subject liquor licence. The Minister also referred to the fact that for 12 years no objection was raised by the petitioner.

4. After having perused the order of the Collector, Commissioner and Minister, I am of the view that the Minister has firstly interfered with the findings of fact without in any manner terming the same as perverse or illegal or otherwise vitiated. What compelled the Minister to exercise his revisional powers and interfere with the findings of facts rendered by the Commissioner and Collector is not clear to me at all. I do not intend to go into rival contentions with regard to the Minister showing any favours to the first respondent. All such contentions need not be considered once both sides do not seriously dispute the fact that the Minister’s order is neither happily worded nor

justifies interference in revisional jurisdiction otherwise. In such circumstances, they are agreed to the said order being quashed and set aside and the matter being restored to file of the concerned Minister/Authority exercising the revisional jurisdiction under section 138 of the Bombay Prohibition Act, 1949. The revision application would, then, have to be reheard on merits and in accordance with law uninfluenced by any observations made earlier. In such circumstances, Rule is made absolute to the extent that the order dated 26th October, 2005 passed by the Minister of Prohibition and Excise is quashed and set aside (Exh.T). The revision application is restored to file for being heard afresh on merits and in accordance with law uninfluenced by any earlier observations and findings by the concerned Revisional Authority/Minister.

5. It is clarified that subject to the outcome of the revisional proceedings and rights of the parties to challenge the findings therein, the present position, in other words, the name of the first respondent shall continue to appear in the subject liquor licence. However, the arrangement

presently continued is strictly without prejudice to the rights and contentions of the petitioner in the revisional proceedings as also in law. The petitioner would be at liberty to adopt such proceedings as he may be advised to assert his right in the subject licence. The arrangement presently made to continue subject to such rights and contentions.

6. The parties to appear before the revisional authority on 10th December, 2007 and the revisional authority to endeavour and dispose of the revision application within a period of six weeks from the date of appearance. All contentions are kept open.The Rule is made absolute accordingly. No order as to costs.

7. Civil Application No.1845 of 2006 in Civil Application No.1008 of 1995 in Writ Petition No.4487 of 1994 which is tagged along with the present writ petition is in distinct writ petition which is pending on the file this Court. Therefore, the same be tagged along with the file of that writ petition for being disposed of in such manner as is permissible in law.

(S.C.DHARMADHIKARI J.)